

1 WO

NOT FOR PUBLICATION

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

9 Garrett D. Hall,

No. CV-15-08189-PCT-JJT

10 Plaintiff,

**ORDER**

11 v.

12 Summit Fire District, *et al.*,

13 Defendants.

15  
16 At issue is Plaintiff Garett D. Hall's Motion to Exclude Opinions and Testimony  
17 of Dr. John Beck (Doc. 87, Mot.), to which Defendants Summit Fire District, Summit  
18 Fire District Board, Howard Nott, Jim Doskocil, Rick Parker, Bill Stoddard, and Don  
19 Howard filed a Response (Doc. 96, Resp.), and Plaintiff filed a Reply (Doc. 97, Reply).  
20 The Court has reviewed the parties' briefs and finds this matter appropriate for decision  
21 without oral argument. *See LRCiv 7.2(f)*. The Court will deny Plaintiff's Motion for the  
22 reasons set forth below.

23 **I. LEGAL STANDARD**

24 Rule 702 of the Federal Rules of Evidence tasks the trial court with ensuring that  
25 any expert testimony provided is relevant and reliable. *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589 (1993). "Evidence is relevant if it has any tendency to make a fact  
26 more or less probable than it would be without the evidence and the fact is of  
27 consequence in determining the action." Fed. R. Evid. 401. The trial court must first  
28

1 assess whether the testimony is valid and whether the expert's reasoning or methodology  
2 can properly be applied to the facts in issue. *Daubert*, 509 U.S. at 592-93. Factors to  
3 consider in this assessment include: whether the methodology can be tested; whether the  
4 methodology has been subjected to peer review; whether the methodology has a known  
5 or potential rate of error; and whether the methodology has been generally accepted  
6 within the relevant professional community. *Id.* at 593-94. "The inquiry envisioned by  
7 Rule 702" is "a flexible one." *Id.* at 594. "The focus . . . must be solely on principles and  
8 methodology, not on the conclusions that they generate." *Id.*

9 The *Daubert* analysis is also applicable to testimony concerning non-scientific  
10 areas of specialized knowledge. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 141  
11 (1999). A qualified expert may testify in the form of opinion if the offered experiential  
12 knowledge will help the trier of fact to understand evidence or determine a fact in issue,  
13 as long as the testimony is based on sufficient data, is the product of reliable principles,  
14 and the expert has reliably applied the principles to the facts of the case. *See Fed. R.*  
15 *Evid.* 702; *Daubert*, 509 U.S. at 579. The advisory committee notes on the 2000  
16 amendments to Rule 702 explain that Rule 702 (as amended in response to *Daubert*) "is  
17 not intended to provide an excuse for an automatic challenge to the testimony of every  
18 expert." *See Kumho Tire*, 526 U.S. at 152. "Vigorous cross-examination, presentation of  
19 contrary evidence, and careful instruction on the burden of proof are the traditional and  
20 appropriate means of attacking shaky but admissible evidence." *Daubert*, 509 U.S. at 595  
21 (citation omitted).

22 **II. ANALYSIS**

23 Plaintiff moves to exclude the testimony of Defendants' expert witness, Dr. John  
24 Beck, arguing that Dr. Beck's testimony opinions are "unreliable" because they have no  
25 basis in fact or data and Dr. Beck's testimony will not assist the trier of fact because he is  
26 not a qualified expert on Post-Traumatic Stress Disorder ("PTSD"). (Mot. at 1-2.)

27  
28

1                   **A. Dr. Beck's Qualifications to Offer Expert Testimony on PTSD and**  
2                   **Reasonable Accommodations**

3                   Plaintiff argues that Dr. Beck is not qualified to provide expert testimony  
4                   regarding reasonable accommodation because he lacks relevant professional experience.  
5                   (See Mot. at 13-14.) Courts evaluating admissibility of “technical” or “specialized”  
6                   knowledge determine first, whether the technical or specialized knowledge will assist the  
7                   trier of fact to understand the evidence or determine a fact in issue; and second, whether  
8                   or not the proposed witness has the requisite qualifications in his area of expertise. *United*  
9                   *States v. Plunk*, 153 F.3d 1011, 1017 (9th Cir. 1998), *overruled on other grounds*  
10                  *recognized by United States v. Hankey*, 203 F.3d 1160, 1169 n.7 (9th Cir. 2000). Rule  
11                  702 contemplates a broad conception of expert qualifications, approving qualification by  
12                  “knowledge, skill, experience, training, or education.” *Thomas v. Newton Int'l Enters.*,  
13                  42 F.3d 1266, 1269 (9th Cir. 1994).

14                  This case involves issues regarding Hall’s PTSD, whether it precludes his ability  
15                  to work, reasonable accommodations available to him, and other related issues. (See  
16                  Doc. 23, 2d Am. Compl.) Plaintiff confuses “relevance” with “qualification” under the  
17                  *Daubert* inquiry. (See Mot. at 13.) Defendants properly contend that Dr. Beck’s expert  
18                  testimony will help explain to the jury the nature of Hall’s PTSD condition, its impact on  
19                  Hall’s work as a firefighter, his treatment, and whether any reasonable accommodation is  
20                  available to him. (Resp. at 6-7.) The Court agrees that Dr. Beck’s offered opinions are  
21                  relevant because they present specialized knowledge regarding Hall’s claims. *See*  
22                  *Daubert*, 509 U.S. at 591.

23                  With regard to his qualifications, Dr. Beck is a board certified psychologist with  
24                  over 30 years of experience. (Resp. Ex. 2, Beck Curriculum Vitae (“CV”) at 4-5.) He has  
25                  treated hundreds of PTSD patients, including evaluations of police officers and veterans.  
26                  (Resp. Ex. 1, Beck Dep. 56:22-57:9, 59:5-16.) Dr. Beck also has 16 years of experience  
27                  as a human resources director, providing reasonable accommodation recommendations  
28                  and receiving feedback from employees. (Resp. Ex. 1, Beck Dep. 150:8-151:13, 169:19-

1 170:1.) Dr. Beck's education, knowledge, and experience are well established by the  
2 record and demonstrate his qualifications to provide expert testimony regarding the  
3 viability of reasonable accommodations and its effect on Hall and other employees.

4 Plaintiff argues that Dr. Beck's primary specialty in mild traumatic brain injury,  
5 his insufficient work experience with public safety officials with PTSD, and his  
6 unfamiliarity with experts in the field of PTSD demonstrate a lack of qualification to  
7 testify in this matter. (Mot. at 14-15.) However, Dr. Beck has performed psychiatric  
8 fitness-for-duty evaluations of police officers and evaluated veterans for PTSD. (Resp.  
9 Ex. 1, Beck Dep. 39:18-42:13, 174:7-11.) Also, his secondary area of expertise in PTSD  
10 has allowed him to provide expert testimony for the past five years for PTSD-related  
11 issues. (Resp. Ex. 1, Beck Dep. 16:14-17:1.) Therefore, Dr. Beck has the qualifications to  
12 provide testimony regarding reasonable accommodations and PTSD.

13 **B. Sufficiency of the Facts and Data Dr. Beck Relied On**

14 Plaintiff next argues Dr. Beck fails to demonstrate proper methodology and data to  
15 support his conclusions about the availability of reasonable accommodations, thus failing  
16 the reliability prong of *Daubert*. (Mot. at 6, 11.) Experts of all kinds may draw  
17 conclusions from "general truths derived from . . . specialized experience." *Kumho Tire*,  
18 526 U.S. at 148. As a result, the original *Daubert* factors, at times, may not be applicable  
19 to testimony that relies on knowledge and experience of the expert, rather than  
20 methodology or theory. *Hankey*, 203 F.3d at 1169. Where an expert fails to provide more  
21 than qualifications, conclusions, and assurances of reliability to support his testimony, the  
22 testimony fails to be sufficiently based on facts and data. See *Daubert v. Merrell Dow*  
23 *Pharms., Inc.*, 43 F.3d 1311, 1319 (9th Cir. 1995).

24 Here, Dr. Beck personally conducted a clinical interview of Hall, administered a  
25 variety of psychological and personality tests, and completed a forensic psychological  
26 examination. (Resp. Ex. 1, Beck Dep. 163:21-25.) Dr. Beck also reviewed Hall's  
27 psychiatric and therapy records, the results of a prior independent medical examination,  
28 and the report completed by Hall's own expert witness. (Resp. Ex. 1, Beck Dep. 164:1-

1 165:14.) Dr. Beck thus based a portion of his opinions regarding Hall’s PTSD condition  
2 on information derived from these psychological tests and records.

3 Regarding his opinions of Hall’s PTSD and the availability of reasonable  
4 accommodation, Dr. Beck cited his 16 years of experience as a human resources director,  
5 making decisions about reasonable accommodations and hardships for a large hospital  
6 system. (Resp. Ex. 1, Beck Dep. 169:19-23.) He also referenced his consultations with  
7 police departments, banks, and other industry leaders in the implementation of the  
8 Americans with Disabilities Act. (Resp. Ex. 1, Beck Dep. 169:22-170:1.) Dr. Beck also  
9 based his opinions about schedule modifications and public safety work on feedback he  
10 had previously received from police officers on light duty and their colleagues. (Resp. Ex.  
11 1, Beck Dep. 150:8-151:13.) Furthermore, Dr. Beck hinged his opinions regarding stimuli  
12 that may trigger Hall’s PTSD on his experience with public safety officials with PTSD and  
13 his psychological evaluation of Hall. (Resp. Ex. 1, Beck Dep. 149:8-12, 170:2-9.)

14 Plaintiff also contends that Dr. Beck based his conclusions on “logic,” without  
15 providing data to support them, and assumptions, not facts about Pinewood Fire  
16 Department, Hall’s current employer. (Mot. at 11.) Courts act as a gatekeeper under  
17 *Daubert*, but do not supplant the adversary system or role of the jury. *Daubert*, 509 U.S.  
18 at 596. The district court does not evaluate the persuasiveness of the offered evidence, but  
19 leaves it to “vigorous cross-examination, presentation of contrary evidence, and careful  
20 instruction on burden of proof” to attack admissible evidence. *Id.* Dr. Beck cited his  
21 extensive experience as a human resources director and his review of Hall’s  
22 psychological evaluations as support for his opinions. The Court thus finds Dr. Beck has  
23 sufficiently relied on proper data, methods, and experience to formulate his opinions and  
24 leaves it to the Plaintiff to dispute the strength of his credentials or weight of his opinion  
25 through cross-examination.

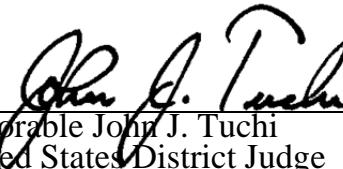
26 **III. CONCLUSION**

27 The Court finds that Dr. Beck’s testimony as to Hall’s PTSD condition and the  
28 availability of reasonable accommodation is relevant to Hall’s legal claims; that Dr. Beck

1 is qualified to offer his testimony; and that his testimony is reliable based on his  
2 referenced experience and his review of Hall's psychological evaluations.

3 **IT IS THEREFORE ORDERED** denying Plaintiff's Motion to Exclude the  
4 Opinions and Testimony of Dr. John Beck (Doc. 87).

5 Dated this 30th day of March, 2018.

6  
7   
8 Honorable John J. Tuchi  
9 United States District Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28